

REMARKS

Claims 1 - 14 are pending in the present application. By this Amendment, claims 1 – 5 have been canceled. No new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated July 28, 2004.

Allowable Claim Subject Matter:

Applicants gratefully acknowledge the indication on page 6 item 7 of the Office Action that claims 12 and 13 would be allowable, if amended, to include all of the limitations of the base claim and any intervening claims.

However, for at least the reasons discussed below, it is respectfully submitted that all of claims 6 - 14 are allowable.

As To The Merits:

As to the merits of this case the Examiner sets for the following rejections:

- 1) claims 1 – 5 stand rejected under 35 U.S.C. §102(b) as being anticipated by Suzsuki et al. (JP 2002-321135);
- 2) claims 1 – 6 and 14 stand rejected under 35 U.S.C. §102(e) as being anticipated by Cappiello (U.S. Patent No. 6,570,652); and
- 3) claims 7 – 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Cappiello.

Each of these rejections is respectfully traversed.

Independent Claim 6:

Independent claim 6 calls for *said optical spectrum analyzer comprises a calibration unit for correcting wavelengths determined by said wavelengths calculation means according to the refractive index of the medium in which said chromatic dispersion device is placed.*

For example, as shown in Fig. 4 of the present application, calibration unit 40 corrects the wavelengths determined by wavelength calculation means 30, according to the refractive index of air in which the diffraction grating 13 is placed.

According to Capiello, “[t]he lens assembly has a focal length for focusing the optical signals in relation to the optical sensor. The diffraction grating has an angular dispersion that changes with temperature and the focal length changes with temperature. The product of the focal length and angular dispersion remains substantially constant with temperature. Optionally, this can be calibrated with software and a temperature sensing system.”¹

However, while Capiello may disclose that software may be used to calibrate the changes with temperature in the angular dispersion of the diffraction grating and the focal length of the lens assembly, Capiello fails to disclose that any type of calibration unit is used to correct the wavelengths determined by electronics 545 or processor 550. See lines, 21-32, column 6 of Capiello.

¹ Please see, lines 39 – 46, column 2 of Capiello.

In other words, while Capiello discloses in Fig. 1 electronics 545, processor 550 and a display 560, which calculate and display the levels in power (dB) at each wavelength, Capiello fails to disclose or fairly suggest that any type of calibration unit is included to correct the wavelengths determined by electronics 545 or processor 550.

As such, it is respectfully submitted that Cappiello fails to disclose these features of claim 6 concerning *said optical spectrum analyzer comprises a calibration unit for correcting wavelengths determined by said wavelengths calculation means according to the refractive index of the medium in which said chromatic dispersion device is placed.*

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

Response under 37 C.F.R. §1.111

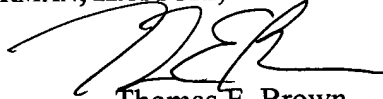
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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read 'TEB', is written over the printed name of Thomas E. Brown.

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